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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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WINNIFRIED NOEL CHARLES, :  
Plaintiff, : ECF CASE  
: No. 07 Civ. 8324 (JSR) (THK)  
:   
-against- :  
MICHAEL CHERTOFF, Secretary of the : NOTICE OF MOTION  
Department of Homeland Security, in his official :  
capacity, ENRICA TROY, MARY ANN :  
GANTNER, and the DEPARTMENT OF :  
HOMELAND SECURITY, x  
Defendants.  
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PLEASE TAKE NOTICE that upon the complaint, defendants' Local Rule 56.1 Statement, defendant's memorandum of law, any declarations and the exhibits annexed thereto in support of the motion, and all other pleadings and proceedings in this action, defendants will move this Court on July 7, 2008, at 4 p.m., before the Honorable Jed S. Rakoff, United States District Judge, United States District Courthouse, 500 Pearl Street, Courtroom 14B, New York, New York 10007, for dismissal of the amended complaint for lack of subject matter jurisdiction and failure to state cognizable claims pursuant to Rules 12(b)(1) and (b)(6), and for summary judgment pursuant to Rule 56, of the Federal Rules of Civil Procedure and for such other relief as is just and proper.

PLEASE TAKE FURTHER NOTICE that, pursuant to the briefing schedule set by the Court, defendants' moving papers are to be served on June 4, 2008, answering papers, if any, are due to be served upon the United States Attorney's Office for the Southern District of New York, 86 Chambers Street, 3rd Floor, New York, New York 10007, on or before June 18, 2008, and defendants' reply papers, if any, are due to be served on or before June 25, 2008.

Dated: New York, New York  
May 27, 2008

Respectfully submitted,

MICHAEL J. GARCIA  
United States Attorney for the  
Southern District of New York  
Attorney for Defendants

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